

Mar 09, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

FAROOQ S. YASEEN,

Defendant.

No. 4:21-CR-06042-MKD-19

ORDER FOLLOWING INITIAL
APPEARANCE AND
ARRAIGNMENT AND SETTING
DETENTION HEARING

On Thursday, March 9, 2023, Defendant made an initial appearance and was arraigned based on the Indictment (ECF No. 1). Defendant was represented by retained counsel Christopher R. Black and assisted by federal court-certified interpreter Hasanain Alsabea. Assistant United States Attorney George Jacobs III represented the United States.

Defendant was advised of and acknowledged his rights.

The Court entered pleas of not guilty on Defendant's behalf.

Prior to the hearing, the United States filed a Motion for Detention (ECF No. 758), and, at the time of the hearing, Defendant requested a detention hearing be set on March 14, 2023.

1 Accordingly, **IT IS ORDERED:**

2 1. **A motion to reopen detention hearing is set before Judge Ekstrom**
3 **in Richland, Washington, on Tuesday, March 14, 2023, at 10:00 AM.**

4 2. Pending the hearing, Defendant shall be detained in the custody of the
5 United States Marshals Service and produced for the hearing.¹ To the extent
6 practicable, Defendant shall be confined separately from persons awaiting or
7 serving sentences or being held in custody pending appeal. Defendant shall be
8 afforded reasonable opportunity for private consultation with counsel. On order of
9 a court of the United States or on request of an attorney for the United States, the
10 person in charge of the corrections facility in which Defendant is confined shall
11 deliver Defendant to the United States Marshals Service for the purpose of an
12 appearance in connection with a court proceeding.

13 3. The Court directs the parties to review the Local Criminal Rules
14 governing discovery and other issues in this case.
15 <http://www.waed.uscourts.gov/court-info/local-rules-and-orders/general-orders>.

16 4. Under federal law, including Rule 5(f) of the Federal Rules of
17 Criminal Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), and all applicable
18 decisions from the Supreme Court and the Ninth Circuit interpreting *Brady*, the
19

20 ¹ See 18 U.S.C. § 3142(f).

1 United States has a continuing obligation to produce all information or evidence
2 known to the United States relating to guilt or punishment that might reasonably be
3 considered favorable to Defendant's case, even if the evidence is not admissible so
4 long as it is reasonably likely to lead to admissible evidence. *See United States v.*
5 *Price*, 566 F.3d 900, 913 n.14 (9th Cir. 2009). Accordingly, the Court orders the
6 United States to produce to Defendant in a timely manner all such information or
7 evidence.

8 Information or evidence may be favorable to a defendant's case if it either
9 may help bolster the defendant's case or impeach a prosecutor's witness or other
10 government evidence. If doubt exists, it should be resolved in favor of Defendant
11 with full disclosure being made.

12 If the United States believes that a required disclosure would compromise
13 witness safety, victim rights, national security, a sensitive law-enforcement
14 technique, or any other substantial government interest, the United States may
15 apply to the Court for a modification of the requirements of this Disclosure Order,
16 which may include *in camera* review and/or withholding or subjecting to a
17 protective order all or part of the information.

18 This Disclosure Order is entered under Rule 5(f) and does not relieve any
19 party in this matter of any other discovery obligation. The consequences for
20 violating either this Disclosure Order or the United States' obligations under *Brady*

1 include, but are not limited to, the following: contempt, sanction, referral to a
2 disciplinary authority, adverse jury instruction, exclusion of evidence, and
3 dismissal of charges. Nothing in this Disclosure Order enlarges or diminishes the
4 United States' obligation to disclose information and evidence to a defendant under
5 *Brady*, as interpreted and applied under Supreme Court and Ninth Circuit
6 precedent. As the Supreme Court noted, "the government violates the
7 Constitution's Due Process Clause 'if it withholds evidence that is favorable to the
8 defense and material to the defendant's guilt or punishment.'" *Turner v. United*
9 *States*, 137 S. Ct. 1885, 1888 (2017) (quoting *Smith v. Cain*, 565 U.S. 73, 75
10 (2012)).

11 **IT IS SO ORDERED.**

12 DATED March 9, 2023.

A handwritten signature in blue ink, reading "Alexander C. Ekstrom", is written over a horizontal line.

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE